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8 **UNITED STATES DISTRICT COURT FOR THE**
9 **WESTERN DISTRICT OF WASHINGTON**
10 **AT TACOMA**

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12 FOREST SERVICE EMPLOYEES FOR
13 ENVIRONMENTAL ETHICS,

14 Plaintiff,

15 v.

16 UNITED STATES FOREST SERVICE,

17 Defendant.
18

CASE NO. 3:17-CV-5747-RBL

ANSWER TO COMPLAINT

19 Pursuant to Federal Rules of Civil Procedure 8 and 15, the United States Forest
20 Service ("Forest Service"), by its undersigned counsel, submits the following Answer and
21 affirmative defenses to the claims and allegations in Plaintiff's Complaint.

22 The paragraph headings in this Answer correspond to the paragraph headings in
23 Plaintiff's Complaint. The headings used in this Answer follow the major section
24 headings used in Plaintiff's Complaint and are included solely for the purpose of
25 organizational convenience in matching the answers provided herein with the allegations
26 made in the Complaint. The "headings" are not part of Defendant's answer to the
27 allegations. Defendant does not waive any defensive theory or agree to or admit that
28 Plaintiff's headings are accurate, appropriate, or substantiated. When a textual sentence

1 is followed by a citation or citations, the textual sentence and its accompanying citation
2 are referred to as one sentence.

- 3 1. The allegations in Paragraph 1 constitute Plaintiff's characterization of its case to
4 which no response is required. To the extent a response is required, Defendant
5 denies any violation of law and denies that Plaintiff is entitled to any relief
6 whatsoever.
- 7 2. The allegations in sentence one of Paragraph 2 constitute Plaintiff's
8 characterization of its case to which no response is required. To the extent a
9 response is required, Defendant denies any violation of law and denies that
10 Plaintiff is entitled to any relief whatsoever. Defendant admits the allegations in
11 sentence two of Paragraph 2.
- 12 3. The allegations in Paragraph 3 constitute Plaintiff's characterization of its case to
13 which no response is required. To the extent a response is required, Defendant
14 denies any violation of law and denies that Plaintiff is entitled to any relief
15 whatsoever.
- 16 4. The allegations in Paragraph 4 constitute Plaintiff's characterization of its case and
17 conclusions of law to which no response is required. To the extent a response is
18 required, Defendant denies any violation of law and denies that Plaintiff is entitled
19 to any relief whatsoever.
- 20 5. The allegations in Paragraph 5 constitute Plaintiff's characterization of its case to
21 which no response is required. To the extent a response is required, Defendant
22 denies any violation of law and denies that Plaintiff is entitled to any relief
23 whatsoever.

24 **"JURISDICTION AND VENUE"**

- 25 6. The allegations in Paragraph 6 consist of conclusions of law, which do not require
26 a response. To the extent a response may be deemed required, the statutes cited
27 speak for themselves and are the best evidence of their contents. Defendant denies
28

any allegations contrary to the plain language, context, or meaning of these statutes.

7. The allegations in Paragraph 7 consist of conclusions of law, which do not require a response. To the extent a response may be deemed required, the statute cited speaks for itself and is the best evidence of its contents. Defendant denies any allegations contrary to the plain language, context, or meaning of the statute.

“PARTIES”

8. Defendant lacks the knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8 and on that basis, denies the allegations.
9. Defendant lacks the knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 9 and on that basis, denies the allegations.
10. Defendant admits the allegations in Paragraph 10 and avers that the permit was fully executed on October 5, 2017.

“FACTUAL BACKGROUND”

11. Defendant admits the allegations in sentence one of Paragraph 11. The allegations in sentence two purport to characterize the National Forest Management Act (“NFMA”), 16 U.S.C. § 1604(i), which speaks for itself and is the best evidence of its content. Defendant denies any allegations contrary to its plain language, meaning, and context. The allegations in sentence three purport to characterize the Olympic National Forest’s Land and Resource Management Plan (“LRMP”), which speaks for itself and is the best evidence of its content. Defendant denies any allegations contrary to its plain language, meaning, and context.
12. Defendant admits the allegations in sentence one of Paragraph 12. The remaining allegations in Paragraph 12 purports to characterize an Environmental Assessment (“EA”) issued by the U.S. Navy in 2014, which speaks for itself and is the best evidence of its content. Defendant denies any allegations contrary to its plain language, meaning, and context.

- 1 13. The allegations in Paragraph 13 purport to characterize the EA, which speaks for
2 itself and is the best evidence of its content. Defendant denies any allegations
3 contrary to its plain language, meaning, and context.
- 4 14. Defendant admits the allegations in Paragraph 14.
- 5 15. Defendant admits the allegations in Paragraph 15.
- 6 16. Defendant admits the allegations in sentence one of Paragraph 16. The allegations
7 in sentence two purport to characterize a letter submitted to the Forest Service,
8 which speaks for itself and is the best evidence of its content. Defendant denies
9 any allegations contrary to its plain language, meaning, and context.
- 10 17. Defendant denies the allegations in sentence one of Paragraph 17 and avers that on
11 July 31, 2017, the Forest Service issued a Decision Notice (“DN”) and Finding of
12 No Significant Impact (“FONSI”), however the instrument that “permits” the
13 Navy to conduct electronic warfare training exercises is the Special Use Permit
14 issued on October 5, 2017. The allegations in sentences two and three purport to
15 characterize the DN/FONSI, which speaks for itself and is the best evidence of its
16 content. Defendant denies any allegations contrary to its plain language, meaning,
17 and context.
- 18 18. Defendant denies the allegations in Paragraph 18.
- 19 19. Defendant denies the allegations in Paragraph 19.

20 **“CLAIM FOR RELIEF”**

- 21 20. The allegations in Paragraph 20 constitute legal conclusions to which no response
22 is required. To the extent a response is required, Defendant denies the allegations
23 and denies any violation of law.

24 **“PRAYER FOR RELIEF”**

25 The remainder of the Complaint constitutes Plaintiff’s request for relief, to which
26 no response is required. To the extent a response is required, Defendant denies any
27 violation of the Administrative Procedure Act or NFMA, and denies that Plaintiff is
28 entitled to the requested relief or any relief whatsoever.

1 Wherefore, Defendant requests the Court deny in all respects Plaintiff's requests
2 for relief, dismiss the Complaint, enter judgment for Defendant, and grant Defendant
3 such other relief as may be appropriate.

4 **GENERAL DENIAL**

5 Defendant denies any allegations of the Complaint, whether express or implied,
6 not specifically admitted, denied, or qualified herein.

7 **AFFIRMATIVE DEFENSES**

- 8 1. Plaintiff has failed to state a claim upon which relief can be granted.
9 2. This Court lacks subject matter jurisdiction to review Plaintiff's claim.
10 3. Plaintiff's claim is moot.
11 4. Plaintiff lacks standing to bring its claim.
12 5. Plaintiff failed to exhaust administrative remedies.

13
14 Respectfully submitted this 29th day of December, 2017.

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16 JEFFREY H. WOOD
17 Acting Assistant Attorney General
18 U.S. Department of Justice
19 Environment & Natural Resources Division

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